

Counsel listed on next page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID HALTERMAN,

Plaintiff,

v.

LEGATO SOFTWARE, a Division of EMC
Corporation; EMC CORPORATION, dba
EMC PERIPHERALS, INC., and DOES 1-X,

Defendants.

Case No. C04-2660 JW

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING
DEPOSITIONS PURSUANT TO
FRCP 29**

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Attorneys for Defendant
EMC Corporation

1 PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 29, Plaintiff David
2 Halterman and Defendant EMC Corporation (collectively, "the parties") stipulate as follows:

3 WHEREAS, plaintiff David Halterman seeks to take more depositions than the
4 limit of ten (10) pursuant to FRCP 30;

5 WHEREAS, defendant EMC Corporation opposes plaintiff's request for more than
6 ten (10) depositions (excluding expert depositions);

7 WHEREAS, plaintiff seeks to take the deposition of Legato System Inc.'s former
8 Chief Executive Officer, David Wright;

9 WHEREAS, defendant opposes plaintiff's request to take Mr. Wright's deposition;

10 WHEREAS, the parties have amicably negotiated in good faith regarding these
11 discovery disputes; and

12 WHEREAS, the parties have agreed to the following;

13 IT IS HEREBY STIPULATED by and between the parties to this action through
14 their designated counsel as follows:

15 1. plaintiff shall be permitted to take no more than four (4) additional
16 depositions (other than expert depositions) for a maximum of fourteen (14) depositions in this
17 case on the following conditions:

18 (a) in excess of ten (10) depositions permitted, plaintiff shall be
19 permitted to take the deposition of Patty Peebles, Barbara Bakich and Noah Mesel at a mutually
20 convenient time and location for the witnesses and counsel;

21 (b) plaintiff and defendant shall submit their discovery dispute
22 regarding Legato's former CEO, David Wright, to the Court for resolution;
23

24 (c) if the Court grants plaintiff's motion to take Mr. Wright's
25 deposition, then plaintiff shall be permitted to take fourteen (14) depositions;
26
27
28

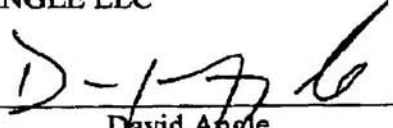
(d) if the Court denies plaintiff's motion to take Mr. Wright's deposition, then plaintiff is restricted to thirteen (13) depositions set forth in paragraph 1(a), above, *i.e.*, plaintiff shall not substitute another individual in place of Mr. Wright.

Dated: July 20, 2005

Respectfully submitted,

KATHRYN BURKETT DICKSON
DICKSON - ROSS LLP

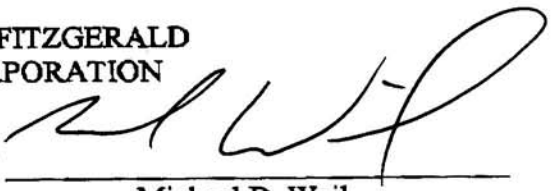
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 7/21/05

/s/ Patricia V. Trumbull
The Honorable Patricia Trumbull
United States District Judge
Magistrate